

REMARKS

Applicants and the undersigned reviewed the pending Office Action carefully before preparing this response. Reconsider is respectfully requested. Nonetheless, in light of the positions presented herein, this application is believed to be in condition for allowance.

Numerous claims were rejected under 35 U.S.C. § 103 as unpatentable over JP '550 taken together with Hsieh. Applicants appreciate the Examiner's concern, but respectfully disagree. Motivation to modify the prior art must flow from some teaching in the art that suggests the desirability or incentive to make the modification needed to arrive at the claimed invention. It is acknowledged that evidence of such motivation may come from the nature of the problem to be solved. However, the nature of the problem clearly shows there is no motivation for the proposed modification.

On the record, translated JP '550 describes a problem to be solved as preservation of soybean nutrients. In particular, lecithin is described as especially sensitive to heat and eliminated when heated at 50° C or higher. (See, page 4, and elsewhere, in the translation.) Quite to the contrary and as stated by the Examiner, Hsieh describes heating above 50° C and at temperatures considerably higher. As such, Hsieh expressly teaches away from JP '550 and a solution to the problems described therein. Teaching away underscores a lack of motivation to make the proposed modification. Absent motivation, there is no *prima facie* obviousness, and the rejection should be withdrawn.


It appears that this continued rejection may be based on facts within the Examiner's personal knowledge. Accordingly, pursuant to 37 CFR § 101.4(d)(2), Applicants respectfully request the Examiner provide an affidavit setting forth such facts contrary to a plain-reading of the JP '550 and Hsieh references. If such an affidavit is not forthcoming, the subject claims should be allowed to proceed toward issue.

Numerous dependent claims were rejected in view of the various reference combinations cited. Applicants incorporate herein positions previously presented. Even

so, as *prima facie* obviousness is lacking with respect to the independent claims, rejections of the subject dependent claims should also be withdrawn.

This application is now believed to be in condition for allowance. Consistent there with, favorable action is respectfully requested. The Examiner is invited to contact the undersigned by telephone should any issue remain. Thank you for your help and consideration.

Respectfully submitted:



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